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Public Interest Partnerships and Collaboration

# Public Interest Partnerships and Collaboration

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O&G has taken on cases referred by – and has co-counseled with - the finest public interest law groups in the country, including the *ACLU* and its Women's Rights Project, the *NYCLU* and its Reproductive Rights Project, the *Transgender Legal Defense and Education Fund*, the *NYU Immigrant Rights Clinic*, the *National Employment Lawyers Project*, the *Legal Aid Society of New York*, *Mobilization for Justice, Inc.*, the Sex Workers Project at the *Urban Justice Center*, *South Brooklyn Legal Services*, the *Asian American Legal Defense and Education Fund*, the *Minkwon Center for Community Action*, the *Legal Aid Justice Center's Immigrant Advocacy Program*, *Legal Aid At Work*, *Youth Represent*, *Make the Road New York*, the *National Women's Law Center*, and *HIV Law Project* - and many others.

In addition to co-counseling with such partners, the firm provides a wide array of services, training, technical assistance, and other support to attorneys and advocates

Contributions at many non-profit organizations. For example, O&G  
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at many non-profit organizations. For example, O&G  
attorneys:

- Provide training for volunteer attorneys for the Eastern District of New York's Pro Bono Mediation Advocacy Program;
- Co-author *amicus briefs* with non-profit advocacy groups;
- Provide support and advice to advocates from the *Legal Aid Society* and *Legal Services New York City* on cases involving severance and settlement negotiations, complaints of discrimination and retaliation, and wage-and-hour issues;
- Provide on-going support to a consortium of advocates dedicated to reducing barriers to employment for individuals with criminal records;
- Represented hundreds of members of the Restaurant Opportunities Center;
- Participate in *Lambda Legal's Cooperating Attorney Network*;
- Consult with the member-based group *Domestic Workers United* on litigation strategies; and
- Presented on workplace rights for the *Grace Institute* and the *Low Wage Workers Task Force*, among other activities.

O&G attorneys sit on the boards of many non-profit organizations, including *Workplace Fairness*, *Human Rights Watch*, *A Better Balance*, the *Lawyers' Committee for Civil Rights Under Law*, the *National Women's Law Center*, and *Queers for Economic Justice*. In addition, the firm's attorneys have ongoing partnerships with the *Vance Center for International Justice of the New York City Bar*, *New York Communities for Change*, *Mobilization for Justice, Inc.*, the *Washington Lawyers Committee for Civil Rights Under Law*, and *First Shift*.

Outten & Golden has been widely recognized for its public service work, having been recognized by: the *HIV Law Project*, *Make the Road New York*, *MFY Legal Services*, and *Legal Services New York City (2010)*; the *American Bar Association's Labor & Employment Section* with the *Frances Perkins Award for Public Service (2011)*;

Brandworkers for its work on behalf of low-income workers (2016); the *Lawyers' Committee for Civil Rights Under Law* with the Robert F. Mullen Pro Bono Award (2017); and the *Fortune Society* (2018) for helping those with criminal histories obtain employment. Our attorneys have also been awarded numerous other awards from our various non-profit organizations for their pro bono services.

### **Make the Road New York – The EmPIRE Act**

O&G has been working with Make the Road New York (MRNY) to pass the “Empowering People in Rights Enforcement (EmPIRE) Worker Protection Act,” which was introduced in the New York State Senate to allow private individuals and representative organizations to bring public enforcement actions on behalf of the state for violations of the New York labor law. The other

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 Democracy, the *New York Communities for Change*, *Citizens Action New York*, the *New York Committee for Occupational Safety and Health*, and *A Better Balance*.  
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 601 Massachusetts Avenue NW San Francisco, CA 94111

### **A Better Balance - Families @Work Legal Clinic**

In 2009, O&G and A Better Balance started the Families @Work Legal Clinic to provide advice and counseling to

low-income workers juggling their work and family

responsibilities. Attorneys from O&G's Family

Responsibilities and Disabilities Discrimination Practice

Group and A Better Balance offer free consultations to

clients about their rights under federal, state, and city

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## Justin M. Swartz

### Partner

New York Office

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## About

**JUSTIN M. SWARTZ**, a partner at Outten & Golden LLP in New York and Co-Chair of its **Class Action Practice Group** [/practice-groups/class-collective-action] , represents employees in class action wage/hour and discrimination cases, as well as individual discrimination cases and other employment matters. He is also Co-Chair of the firm's **Public Interest Committee** [/law-firm/commitment-public-interest] .

Over the past ten years, Mr. Swartz has been lead counsel or co-lead counsel in dozens of unpaid wage theft class and collective actions on behalf of workers in a wide variety of industries. He has represented thousands of workers in unpaid overtime lawsuits including assistant store managers at drugstores, restaurants (including Chipotle), and retail clothing chains, furniture salespeople, unpaid interns, “volunteers” who work for private companies (including Major League Baseball), dishwasher repair people, exterminators,



delivery drivers, security guards, financial services employees, bank assistant branch managers, grocery store assistant managers and hourly workers, pet groomers, entry-level accounting employees, and adult entertainers, among others. He is currently litigating cases challenging the practice of classifying workers as independent contractors and failing to pay overtime compensation. He has also represented thousands of restaurant workers in overtime, minimum wage, and tip theft cases, including cases against TGI Friday's and Applebees, as well as restaurants owned by Mario Batali, Bobby Flay, and other celebrity chefs. Mr. Swartz and Outten & Golden LLP's Public Interest Committee have represented hundreds of low-wage workers in minimum wage and unpaid overtime cases, including construction workers, farm workers, and low-wage cleaning workers in their claims that large contractors failed to pay them overtime compensation for their work cleaning buildings around Ground Zero in 2001.

He has also represented workers in employment discrimination claims against companies that have refused to hire minorities with criminal records, systemic gender discrimination claims against a major utility company; and several individual race, gender identity, sexual orientation, and national origin discrimination cases. He has represented hundreds of female and African American stock brokers in nationwide discrimination class action lawsuits against the country's leading brokerage firms, including Merrill Lynch, Bank of America, Goldman Sachs, and Smith Barney.

Mr. Swartz is active in bar associations including the American Bar Association Section of Labor and Employment Law where he is Co-Chair of the Section's CLE/Institutes and Meetings Committee, Co-Chair of the

Committee on Equal Employment Opportunity Law, and is a former Co-Chair of the Ethics and Professional Responsibility Committee.

Mr. Swartz frequently works with non-profit organizations on public interest matters including successfully representing a formerly incarcerated security guard in a licensing hearing in conjunction with MFY Legal Services and representing three low-wage immigrant women in sexual harassment, assault and battery, and overtime claims as co-counsel with the ACLU Women's Rights Project. He has co-counseled with, and performed pro bono services for, Make the Road New York, The Legal Aid Society, South Brooklyn Legal Services, Manhattan Legal Services, the New York Civil Liberties Union, Legal Momentum, NYLAG, the Sylvia Rivera Law Project, and MFY Legal Services as a volunteer attorney at its legal clinics. Mr. Swartz is also part of the Lambda Legal Cooperating Attorney Network. While living in Chicago, he volunteered at First Defense Legal Aid, providing emergency representation for recent arrestees and documenting police misconduct.

Mr. Swartz joined Outten & Golden LLP in December 2003 after representing workers as an associate at Goodman & Zuchlewski, LLP, in New York and Stowell & Friedman, Ltd., in Chicago.

He graduated from DePaul University School of Law with honors in 1998.



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## Bar Admissions & Professional Activities

- Mr. Swartz is admitted to practice law only in New York and Illinois.
- Mr. Swartz is admitted to the following federal courts: The United States District Courts for the Southern District of New York, the Eastern District of New York, the Western District of New York; and the Northern District of Illinois.
- Mr. Swartz is active in several bar associations including the Association of the Bar of the City of New York, where he has served on the Committee on Civil Rights (2005-2008) and the Committee on Labor and Employment Law (2002-2005). He is a member of the Executive Board of the National Employment Lawyers Association (NELA) New York affiliate and is Co-Chair of the NELA National Wage and Hour Committee. He is an active member of the ABA Section on Labor and Employment Law, where he was a Vice Chair of the planning committee for the 4<sup>th</sup> Annual CLE Conference, was Co-Chair of the Ethics and Professional Responsibility Committee from 2005-2008, is a Contributing Editor for the supplement to the BNA/ABA LEL Section treatise, The Fair Labor Standards Act, a Chapter Monitor for the supplement to the BNA/ABA LEL Section treatise, Employment Discrimination Law, and co-chair of the Equal Employment Opportunity Committee 2012 conference planning committee. He also belongs to the American Constitution Society and Americans United for Separation of Church and State.

# Speaking Engagements

Mr. Swartz speaks frequently on employment law and ethics. He has spoken and co-authored papers on prosecuting employment discrimination claims, representing sexual harassment victims, discrimination claims against lesbian, gay, bisexual, and transgender people, a wide variety of wage and hour issues, workplace privacy issues, retaliatory counterclaims by employers, discrimination suits by law-firm partners, stereotyping evidence in discrimination cases, and other employment law and ethics issues.

## 2019

- Speaker, Moderator: **"Arbitration Administrators Hear From NELA Lawyers On The Challenges They Face In Arbitration** [<http://exchange.nela.org/springseminar/program/schedule>] ," National Employment Lawyers Association, 2019 Spring Seminar, Denver, CO

## 2018

- Speaker: "View from the Plaintiffs' Bar: Adapting Your Defense Strategies to New and Innovative Techniques and Tactics," American Conference Institute, 26th National Forum on Wage & Hour Claims and Class Actions, Miami, FL

## 2017

- Panelist: "FLSA/Wage & Hour Issues in US Sport," Sports Lawyers Association (SLA), 2017 Annual Conference, Denver, CO
- Panelist: "Interactive "Ask the Plaintiff's Bar," American Conference Institute'2 29th National Forum, Wage & Hour Claims and Class Actions, Session: Adapt Your Strategies to New and Innovative Techniques Being Brought by Your Adversaries Specifically in the Wage Context, Miami, FL

## 2016

- Panelist: "Interactive "Ask the Plaintiff 's Bar" Session: Adapt Your Strategies to New and Innovatice Techniquet Beign Brought by Your Adversaries Specifically in the Wage Context," American Conference Institute, 28th National Forum on Wage & Hour Claims and Class Action, San Francisco, CA
- Moderator: "Co-Counseling & Cooperating with Other Plantiffs' Lawyers (Or Playing Nice in The Sandbox)," NELA, 2016 Annual Convention, Los Angeles, CA

## 2015

- Speaker: "Views From The Plaintiff's Bar," American Conference Institute, 25th Wage & Hour Conference, San Francisco, CA

- Moderator: "Vulnerable Workers Under the Microscope: Developments and Prospects," ABA Section of Labor & Employment, National Conference on Equal Employment Opportunity Law, Miami Beach, FL
- Faculty: "Wage-Hour Actions," NYU University School of Law, Eighteenth Annual NYU Workshop on Employment Law for Federal Judges, NYU Labor & Employment Law, Institute of Judicial Administration, New York, NY
- Speaker: "View from the Plaintiffs' Bar: Adapting Your Defense Strategies to New and Innovative Techniques and Tactics," American Conference Institute, 23rd National Forum on Wage & Hour Claims and Class Actions, Miami, FL
- Speaker: "Current Issues in Settlement of FLSA Cases," New York City Bar Association, New York, NY
- Panelist: "Displaying Professionalism When Clients Allege Wrongdoing and Malpractice," ABA, Section of Labor & Employment Law, 9th Annual Labor & Employment Law Conference, Philadelphia, PA
- Speaker: "Interns and Volunteers as Employees?," New York University, 68th Annual Conference on Labor, New York, NY

## 2014

- Moderator: "Arbitration and Alternatives," New York University, Title VII of the Civil Rights Act After 50 Years, NYU 67th Annual Conference on Labor, New York, NY
- Panelist: "Views From The Plaintiffs' Bar: Adapting Your Defense Strategies to New and Innovative Techniques and Tactics," American Conference Institute, 20th Wage & Hour Claims and Class Actions Conference, Miami, FL
- Speaker: "View from the Plaintiffs' Bar: Adapting Your Defense Strategies to New and Innovative Techniques and Tactics," American Conference Institute, 21st Wage & Hour Claims and Class Actions Conference, New York, NY
- Speaker: "Keeping the Heat On Employers in FLSA Cases," NELA, 2014 Annual Convention: Blazing the Trail, Courage, Challenge, Change, Boston, MA
- Speaker: "Defeating and Dealing with Arbitration Agreements in Fair Labor Standards Act (FLSA) Cases," American Association for Justice, Employment Rights Section and Wage & Hour Litigation Group, Baltimore, MD
- Panelist: "FLSA Mediation Issues," JAMS, Employment Law Practice Group Conference, New York, NY
- Moderator: "Raising the Level of Ethics and Professionalism in the Labor and Employment Bar," ABA Section of Labor & Employment Law, 8th Annual Labor & Employment Conference, Los Angeles, CA
- Panelist: "Views From The Plaintiffs' Bar: Adapting Your Defense Strategies to New and Innovative Techniques and Tactics," American Conference Institute, 21st Wage & Hour Claims

- Speaker: "View from the Plaintiffs' Bar: Adapting Your Defense Strategies to New and Innovative Techniques and Tactics," American Conference Institute, 22nd National Forum on Wage & Hour Claims and Class Actions, Los Angeles, CA
- Facilitator: "A Side Bar With the Judges on Rule 30(b)(6): Use, Abuse, and Process," National Conference on Equal Employment Opportunity Law, Rancho Mirage, CA

## 2013

- Faculty: "Wage and Hour Practice Today: Policies and Litigation Strategies after Comcast, Genesis, and Espenschied," American Law Institute, CLE, Audio/Webcast
- Speaker: "Wage & Hour Claims and Class Actions," American Conference Institute, 18th National Forum, New York, NY
- Speaker: "Attorney's Fees and Settlement of FLSA Actions," Bridgeport Continuing Legal Education
- Panelist: "Talk to Me: Communications with Potential Class Members Before and After Complaint Filing," ABA Labor & Employment Section, 7th Annual Conference, New Orleans, LA
- Panelist: "Plaintiff's Perspective on Wage and Hour Litigation," New York County Lawyers' Association, How to Handle a Wage and Hour Case, New York, NY
- Panelist: "Settling Wage-Hour Litigation (including Rule 68 Offers after Genesis Healthcare v. Symczyk), Litigation and Settlement of FLSA Claims," NYU Labor & Employment Law, NYU 66th Annual Conference on Labor, New York, NY
- Panelist: "Attorney's Fees and Settlement of FLSA and Wage & Hour Actions," FLSA/Wage & Hour 2013 Litigation & Management, New York, NY
- Panelist: "Class and Collective Action Certification and Related Discovery," Practising Law Institute (PLI), Managing Wage & Hour Risks 2013, New York, NY

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## Publications & Articles

### **A Puzder-Led Labor Department Would Make Life Much Harder for U.S.**

**Workers** [<https://www.employmentlawblog.info/2017/02/a-puzder-led-labor-department-would-make-life-much-harder-for-us-workers.shtml>]

Justin M. Swartz, O&G Employment Law Blog, February 8, 2017

**Continue reading** [<https://www.employmentlawblog.info/2017/02/a-puzder-led-labor-department-would-make-life-much-harder-for-us-workers.shtml>]

## **Stalled Overtime Rules Will Hurt All U.S. Workers, Including Trump Voters**

[<https://www.employmentlawblog.info/2017/01/stalled-overtime-rules-will-hurt-all-us-workers-including-trump-voters.shtml>]

Justin M. Swartz, O&G Employment Law Blog, January 19, 2017

**Continue reading** [<https://www.employmentlawblog.info/2017/01/stalled-overtime-rules-will-hurt-all-us-workers-including-trump-voters.shtml>]

## **New York Attorney General Says Domino's Pizza Is "Joint Employer" in Wage Theft Scheme** [<https://www.employmentlawblog.info/2016/06/new-york-attorney-general-says-dominos-pizza-is-joint-employer-in-wage-theft-scheme.shtml>]

Justin M. Swartz and Michael Litrownik, O&G Employment Law Blog, June 3, 2016

**Continue reading** [<https://www.employmentlawblog.info/2016/06/new-york-attorney-general-says-dominos-pizza-is-joint-employer-in-wage-theft-scheme.shtml>]

## **Overtime Class of Duane Reade Assistant Store Managers Conditionally Certified** [<https://www.employmentlawblog.info/2012/01/overtime-class-of-duane-reade-assistant-store-managers-conditionally-certified.shtml>]

Justin M. Swartz, O&G Employment Law Blog, January 28, 2012

**Continue reading** [<https://www.employmentlawblog.info/2012/01/overtime-class-of-duane-reade-assistant-store-managers-conditionally-certified.shtml>]


## **FLSA Collective Action Notice Issues**

Justin M. Swartz and Juno Turner, Labor & Employment Law, Section of Labor and Employment Law, American Bar Association, Winter 2013, Volume 41, Number 2

## **The Epidemic Of Employer Misclassification Of Employees As Independent Contractors Under The Fair Labor Standards Act, And The Courts' Response**

Justin M. Swartz, and Mariko Hirose, and contributions by Piper Hoffman, 2009

The Fair Labor Standards Act (FLSA)'s compensation requirements, such as minimum wages and overtime pay, apply only to "employees." *Chao v. Mid-Atl. Installation Servs., Inc.*, 16 F. App'x 104, 105 (4th Cir. 2001). Employers can get around these requirements and lower their tax bills at the same time by classifying workers as "independent contractors" instead of "employees." Employers classify as independent contractors many workers who do not meet the legal definition: the Department of Labor estimates that up to 30% of U.S. employers misclassify workers. Courts have found rampant violations across certain industries.

 **PDF file (79.06 KB)** [</file/108/download?token=Pv2hZO5W>]



## EEOC Committee Reviews Workplace Diversity Issues

Justin Swartz and Rachel Bien, Section of Labor & Employment Law, American Bar Association, Vol. 35, Number 4, Summer 2007


Few doubt the merits of diversity in the workplace. Indeed, a host of organizational leaders from chief executive officers to top military brass have recently touted the importance of a diverse labor force. As a result, an entire industry has emerged, geared toward eradicating workplace inequality.

Many thoughtful ideas have made their way onto "best practices" lists that identify methods to increase the representation of historically underrepresented groups in corporations and firms. (See, e.g., Equal Employment Opportunity Committee Diversity Task Force web page, which links to several lists of "best practices," <http://apps.americanbar.org/dch/comadd.cfm?com=LL104000&pg=2>

[<http://apps.americanbar.org/dch/comadd.cfm?com=LL104000&pg=2>]

Despite all of this attention, however, the challenge of actually achieving diversity remains. As Alexandra Kalev, Frank Dobbin, and Erin Kelly wrote in a recent article examining the effectiveness of employers' efforts to promote diversity, "We know a lot about the disease of workplace inequality, but not much about the cure." "Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies," 71 Am. Soc. Rev. 589, 590 (August 2006).

At the 2007 National Conference on Equal Employment Opportunity Law in Charleston, South Carolina, the Section's Equal Employment Opportunity Committee (EEOC) presented two panels that focused on efforts to increase diversity in private sector workplaces, including law firms. The consensus that emerged from both panels was clear: truly overcoming inequality in the workplace requires more than changing hearts and minds. It demands a structural, top-down approach with incentives for meeting concrete diversity goals.

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## Ethics Corner: Third Circuit Vindicates Plaintiff's Attorney


Justin M. Swartz and Cara E. Greene. July, 2007. Ethics Corner is a regular contribution by the ABA, Labor & Employment Law Section's Ethics and Professional Responsibility Committee.

The Third Circuit recently overturned a district court order disqualifying a plaintiff's attorney who had conducted an *ex parte* interview of the defendant's administrative assistant. *EEOC v. HORA, Inc.*, No. 05-5393, 2007 U.S. App. LEXIS 15705 (3d Cir. June 29, 2007) (unpublished decision). Characterizing the disqualification as "draconian," the Circuit held that the district court abused its discretion because the lawyer did not violate any ethics rules, and, even if she had, there was no prejudice to the defendant.

The plaintiff's lawyer, Jana Barnett, represented Manessta Beverly in a sex harassment and retaliation case against a Days Inn franchise and its management company. During discovery, Barnett conducted an *ex parte* interview of Debbie Richardson, an administrative assistant at the Days Inn. The district

court disqualified Barnett for conducting the interview, finding that she violated Pennsylvania Rules of Professional Conduct (“PRPC”) Rules 4.2, 4.4, and 5.7.


The Third Circuit reversed, holding that Barnett did not violate Rule 4.2 because the administrative assistant was not a member of the organization with whom *ex parte* contact was forbidden. The Third Circuit recently overturned a district court order disqualifying a plaintiff’s attorney who had conducted an *ex parte* interview of the defendant’s administrative assistant.

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## **Can Law Firm Partners Sue The Firm For Employment Discrimination?**

Employment attorneys Wayne Outten and Justin Swartz. This article originally appeared in Law Journal Newsletters' Law Firm Partnership & Benefits Report, February 2004. For more information, visit [www.ljnonline.com](http://www.ljnonline.com) [http://www.ljnonline.com] .

This article will first discuss reasons that law firms, especially large firms, are susceptible to discrimination suits by their partners. Next, it will explain two threshold requirements for law firm partners to sue their firms for employment discrimination. Both of these requirements turn on whether certain partners are deemed employees. Third, the article will discuss the Supreme Court’s *Clackamas* decision and lower court decisions that preceded *Clackamas* but used similar analyses. Finally, it will note that, under some federal and state laws, law firms are vulnerable even if their partners are not deemed employees. Discussion of: reasons law firms may be susceptible to discrimination suits by their partners; two required thresholds for filing such a suit; Supreme Court's *Clackamas* decision; and finally a note on why some law firms are vulnerable even if their partners are not deemed employees.

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## **Retaliatory Counterclaims: Turning The Tables On The Overly Aggressive Defendant**

Authored by employment attorneys Justin M. Swartz, Tarik F. Ajami, and Mark R. Humowiecki. This article sets forth the advantages and disadvantages of these different options and the basic legal principles that are common to retaliatory counterclaims no matter what course you choose.

Twenty days after filing your class action complaint, you receive defendant’s Answer. Curiously, not only does the company deny each and every allegation, it also asserts counterclaims alleging that it is entitled to the disgorgement of salary paid to the named plaintiff because of his “crude, improper, and disruptive conduct” while an employee. Not only is this counterclaim entirely baseless as a legal and factual matter, it is also a form of retaliation against the plaintiff that aims to intimidate him and other employees from enforcing their rights.

Recently, we have seen a spate of frivolous, retaliatory counterclaims asserted against our clients in both individual and class employment actions. Such counterclaims present an opportunity for the smart plaintiff's attorney to take the offensive with respect to her adversary and to appear the more reasonable party before the court (while also showing how nefarious her adversary is). Your options for responding to such counterclaims are myriad. Factors such as the strength of the counterclaim, the nature of the underlying litigation, the actual chilling effect of the retaliation, and the dispositions of the adversary and the judge will dictate the most appropriate strategy.

You may simply amend the complaint to assert a retaliation claim or seek to convince the opposing counsel to withdraw the counterclaims. Alternatively, you may want to aggressively litigate the retaliation from the beginning by moving to dismiss the counterclaims or even seeking to enjoin further retaliation and to impose other measures to repair the chilling effect of the retaliation. This article sets forth the advantages and disadvantages of these different options and the basic legal principles that are common to retaliatory counterclaims no matter what course you choose.

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## Awards & Recognition

- 2016-2021: Selected to Best Lawyers®
- 2019-2020: Legal 500 United States Recommended Labor and Employment Lawyer
- 2019: Named "Lawyer of the Year" by Best Lawyers® for: Litigation - Labor and Employment, New York City
- 2018-2020: Lawdragon 500 Leading Plaintiff Employment Lawyers
- 2019: Lawdragon 500 Leading Lawyers
- 2013-2020: Selected to Super Lawyers
- 2011-2012: Recognized as a Rising Star by Super Lawyers

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**East Shore**

## **Lawsuit accuses Staten Island car wash of wage, labor law violations**

Updated Mar 04, 2019; Posted Mar 11, 2013



According to the lawsuit, Clean Touch Car Wash in Grant City and its owner, Joseph Scanni of Charleston, didn't pay workers minimum wage, dipped into their tips, didn't pay overtime hours and didn't keep proper records for their employees.

By **John M. Annese | [annese@siadvance.com](mailto:annese@siadvance.com)**

STATEN ISLAND, N.Y. -- Two car wash workers have teamed up with an immigrant rights group to start a class action lawsuit against their Grant City employer, alleging a host of wage and labor law violations.

According to the lawsuit, Clean Touch Car Wash at 2093 Hylan Blvd. and its owner, Joseph Scanni of Charleston, didn't pay the workers minimum wage, dipped into their tips, didn't pay overtime hours and didn't keep proper records for their employees.

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The lawsuit, filed by Ovidio Lopes Morales and Mateo Lares Michocoj, was filed in Brooklyn Federal Court late last month. They're being represented by activist group Make The Road New York, and attorney Justin M. Swartz, of Outten & Golden LLP in Manhattan.

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In an interview with the Advance, Swartz wouldn't discuss the two workers' citizenship status, stating instead, "That's not relevant to our claim ... Whether or not somebody is undocumented, they're covered by the wage and labor laws."

Scanni did not return messages seeking comment.

The lawsuit comes on the heels of a campaign by Make the Road, another advocacy group, New York Community Groups, and a retail workers union, that centers on working conditions for car wash employees citywide.

In a written statement, Make the Road lawyer Julia Dietz said, "This lawsuit shows that car wash workers in New York will no longer stay silent in the face of wage theft. Car wash employees, who are exposed to harsh chemicals and work under difficult conditions, will fight to hold owners accountable and demand fair wages and benefits and dignity on the job."

Lares worked with Clean Touch for four years, until he was fired in 2009, while Lopes was employed there from 2000 until April of last year, according to the lawsuit.

The lawsuit claims that Clean Touch and Scanni made the two employees work more than 40 hours a week, and often more than 10 hours a day, without proper time-and-a-half pay. On slow days, the company would send them home with only one or two hours pay, even though law requires they must be paid "four hours minimum call-in pay."

Swartz said they were paid \$5 an hour plus tips. Except, according to the lawsuit, their tips were divvied up among other workers, including managers and cashiers, "who are not regularly or customarily eligible to receive customer gratuities," the lawsuit claims. The state's minimum wage for Lares and Lopes should have been \$7.15 an hour from 2007 to July 2009, then \$7.25 an hour after July 24, 2009, the lawsuit states.

The lawsuit also alleges Clean Touch failed to keep proper records, or provide wage notices in either English or the workers' primary language, Spanish.

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## Press

**December 3, 2015**

**Source: New York Law Journal**

**Subject: Immigration**

**Type: Media Coverage**

### Parties Settle in Suffolk Sexual Harassment Case

**By Joel Stashenko**

The federal Equal Employment Opportunity Commission and a Long Island laundry have reached a \$582,000 settlement in a sexual harassment suit filed in 2012 by the federal agency on behalf of eight former female employees.

The workers alleged that their supervisor at Suffolk Laundry Services in Southampton touched them inappropriately, made comments about their appearances and conditioned requests for time off or for machine repairs with demands that the women kiss him or sit on his lap.

The Eastern District suit, Equal Employment Opportunity Commission v. Suffolk Laundry Services, 12-cv-409, also charged that female employees who complained of their treatment were either fired or had their hours changed as punishment.

The laundry service agreed to a four-year consent decree barring discrimination, instituting new procedures and mandating sexual harassment training.

Suffolk Laundry Services admitted no wrongdoing in entering into the consent decree.

**En Español**

**Know Your Rights**



America, were represented by Nancy Trasande and Natasha Lycia Ora Bannan of LatinoJustice PRLDEF, **Elizabeth Joynes of Make the Road New York** and Kathleen Peratis and Christopher McNerney, partner and associate, respectively, of Outten & Golden.

EEOC attorneys Robert Rose, Nora Curtin, Adela Santos and Sebastian Daniel Riccardi represented their agency.

The owner of Suffolk Laundry Services, Walter Smith, was represented by several attorneys from Franklin, Gringer & Cohen of Garden City, including partner Martin Gringer.

Fees for the plaintiffs' attorneys will be paid out of the plaintiffs' share of the \$582,000 settlement, the decree stipulated. The settlement was first reported by Newsday.

To view the original article, [click here](#).

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[http://www.americanbar.org/groups/labor\_law/awards/frances\_perkins], 2011

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"We recognize and honor your strong ideals, accomplishments, keen legal acumen, and contributions to the field of labor law."  
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March 18, 2010

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Ellen Davidson

November 18, 2010

# Thank You for Making MRNY's 2010 Gala a Great Success!

By Make the Road New York Staff / Make the Road New  
York



From left to right: singer Emilio Ross and gala honorees, MRNY Fasters for Just Immigration Reform and Justin Swartz

Dear Friends,

On November 17, Make the Road New York celebrated our largest and most successful gala yet. We were pleased to celebrate with 325 guests and the many event sponsors who made it such a memorable eve **helped us to raise \$230,000 for MRNY's work with immigrant and working class New Yorkers.**

We were delighted to honor **Patrick O'Neill**, Executive VP and Organizing Director of UFCW; **Justin S** Partner at Outten & Golden LLP; and **seventeen of MRNY's members** who, along with many supporters elected officials and staff, held a 72-hour fast for immigration reform earlier this year.

All of the evening's courageous honorees have shown resilience and determination to build **DIGNITY, COMMUNITY and POWER** for NYC's low-income and immigrant families, workers and students. Their work is exemplary of the values MRNY promotes, and we were proud to honor their achievements and their commitment.

**We would like to thank our generous guests and sponsors. Thank you also to the many government officials who came out to support MRNY:**

Assemblyman Richard Gottfried  
Assemblyman-Elect Francisco Moya  
Public Advocate Bill de Blasio



Manhattan Borough President Scott Stringer  
City Council Speaker Christine Quinn  
City Council Member Brad Lander  
City Council Member Diana Reyna  
City Council Member Margaret Chin  
City Council Member Jumaane Williams City Council Member Gail Brewer  
City Council Member Jimmy Van Bramer  
City Council Member Daniel Dromm  
and NYC Department of Housing Preservation and Development Commissioner Rafael Cestero.

2010 has been a tremendously successful year for our work, thanks to our many dedicated supporters. move into 2011, we are counting on **your support** to continue our vital community organizing, education services work that promotes **DIGNITY, COMMUNITY and POWER** for all New Yorkers.

.....



From left to right: Guests hit the dance floor, and gala honorees Patrick O'Neill and Adela Valdez

.....